



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/914,231      | 09/14/2001  | David John Fisher    |                     | 1861             |

7590 11/19/2002  
Edwin D Schindler  
Five Hirsch Avenue  
PO Box 966  
Coram, NY 11727-0966

EXAMINER

D'ADAMO, STEPHEN D

ART UNIT PAPER NUMBER

3636

DATE MAILED: 11/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/914,231

Applicant(s)

FISHER ET AL.

Examiner

Stephen D'Adamo

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 16-19 and 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 20-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 September 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 16-19 and 25 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention.

### ***Specification***

2. The disclosure is objected to because of the following informalities:
  - Page 5, line 1: “the beam extrusion” needs a reference character
  - Page 5, line 25: “Figs 5 and 6” should read as “Figs 6 and 7”
  - Page 6, line 7: “perimeter beam” needs a reference character
  - Page 10, line 5” “Fig 8” should read as “Fig 9”

Appropriate correction is required.

### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “perimeter beam,” upholstered connection means,” or complimentary connection means” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to under 37 CFR 1.83(a) because they fail to clearly show the invention in Figures 1-3, the perimeter beam, the beam extrusion, the upholstered connection means or complimentary connection means as described in the specification. Any structural

Art Unit: 3636

detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following terms are confusing and lack clarity:

- “a surface adjacent the position at which seats are to be located” (claim 1, line 2)
- “directly or indirectly” is considered an improper alternate (claim 2, line 3)
- “is in no way obstructed” (claim 2, line 6)
- “therethrough through” (claim 4, line 2)
- “aperture passing therethrough through which a bolt may pass, which a bolt can pass through an aperture” is repetitive (claim 4, lines 2-3)
- “back member which is adapted to carry the load of the seat” is confusing since the seat support is the load carrying member in the present invention (claim 7, line 2-3)
- It is unclear how the “two arms” in claim 7 are interconnected. Clarification is needed.

Art Unit: 3636

- The term "unitary" must be clarified in claim 8. It should be noted that the seat member and back member are not unitary, as seen in Figures 6 and 7.
- "identification can readily be provided" (claim 14)
- "co-operate with complimentary connection means" (claim 22)

6. Claims 2, 3 have insufficient antecedent basis for the following limitations:

- "the two portions" (claim 2, line 5)
- "the underside" (claim 3, line 3)
- "the support" (claim 7, line 6)
- "the plastics material" (claim 12, line 2)
- "the displaced plastics material" and "the body" and "the dies" (claim 13)
- "the associated chair" (claim 20, line 3)
- "the upholstered portion" and "the portions" (claim 22)

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 15, 20 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Piretti (3,762,765).

In regards to claim 1, Piretti discloses a beam 9 that receives a formation of the base of a seat. The seats can be distributed and positioned as any desirable location along the

Art Unit: 3636

beam. Piretti recites, "the chair is also so constructed as to be mounted, in a removable manner, on a single longitudinal supporting member" (col.1, lines 24-26).

In regards to claim 15, 20 and 23, Figures 4-6 and 8-10 of Piretti's disclosure shows armrests 13 which are "removably mounted" and writing table 17 "which is pivotally connected and is adapted to be used for taking notes during conferences, meetings, or the like" (col.1, lines 9-13).

Claim 24 rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Piretti (3,762,765).

Piretti discloses a backrest 3 in Figure 2. Extending the backrest for additional comfort is a matter of design choice given that only the shape and the size is considered.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over in view of Piretti (3,762,765) in view of Hock (6,095,603).

Piretti discloses a conventional beam 9 for supporting chairs, however, Piretti lacks further detail regarding the structural design of the beam. In Figure 2, Hock discloses a beam having two spaced parts 10 and 14, which allows for the chairs to be connected to the beam and the beam to be connected to the support. The longitudinal channel on the underside of 14 receives the connector member 23, which has a complimentary shape

Art Unit: 3636

with that of the channel. The connector member also includes threaded apertures as the connecting means for the beam. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the beam of Piretti with the teachings of Hock's connection and structural design for a stronger and safer support structure.

Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over in view of Piretti (3,762,765) in view of Park (1,374,467).

Piretti's back member and the seat member are similarly unitary as presented in the current application. Piretti also discloses a pivot for the seat to fold upright. However, Piretti only includes one arm 2b connected to the back member. Park teaches the use of multiple arm members, as seen in Figure 2. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the arm of Piretti and include more arm members, as taught by Park, to be connected to the back member for additional structural support.

Claims 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Piretti (3,762,765) in view of Park (1,374,467) and in further view of Springfield (4,133,579).

Piretti does not disclose information regarding the structure of the seat. However, Merrick discloses a "one-piece rotationally molded plastic" stadium chair seating system with structural details. Merrick recites, "the chair module may be further characterized as having a hollow, double wall construction" (col.2, lines 21-22). Merrick continues, "the chair module 10 is made from a high density polyethylene plastic polymer" (col.3, lines 64-65). It would have been obvious to one having ordinary skill in the art at the time the

Art Unit: 3636

invention was made to use the molding techniques, as taught by Merrick, to modify Piretti's chairs for a stronger and more durable structure.

Claims 14, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Piretti (3,762,765) in view of Springfield (4,133,579).

Piretti fails to disclose identification means on the chairs, as well as, upholstery means for the chair. Springfield discloses in Figure 1, both identification and upholstery means. In the upper left hand corner of the backrest, the #5 is the identification means. On the seat and backrest, at each corner of the seat are "conventional fasteners" 12 and 17 which can be used for fastening upholstery to the seat and backrest. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include both upholstery means and identification means, as taught by Springfield, for modifying Piretti's chair for additional comfort and easier identification for individual seats. Moreover, both upholstery means and identification means are old and well known in the art.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jones, Koller, Vogel, Conner, Chapman, Wycech et al., Hensiksson et al., Donnelly, Muller, Hoven et al., Mackintosh, Close, Marsh et al, Wang, and Jensen all show various features of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen D'Adamo whose telephone number is 703-305-8173. The examiner can normally be reached on Monday-Thursday 7:00-4:30, 2nd Friday 7:00-3:30.




Art Unit: 3636

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pete Cuomo can be reached on 703-308-0827. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1018.

SD

sd  
November 6, 2002

  
**Peter M. Cuomo**  
**Supervisory Patent Examiner**  
**Technology Center 3600**